

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

In Re: FEMA TRAILER  
FORMALDEHYDE PRODUCTS  
LIABILITY LITIGATION

MDL NO. 07-1873

SECTION "N" (4)

THIS DOCUMENT RELATES TO  
ALL CASES

**PRETRIAL ORDER NO. 46**

On October 23, 2009, the Court held a status conference in chambers with liaison counsel, steering committee members, and counsel for the Government. The following individuals were in attendance: Jerry Meunier, Justin Woods, Andy Weinstock, Joe Glass, Matt Moreland, Raul Bencomo, Ernie Gieger, Frank D'Amico, Jr., Jerry Saporito, Jim Percy, Stewart Tharp, Linda Nelson, Adam Dinnell, Tim Scandurro, Tom Thagard, Robert Becnel, Henry Miller, Richard Sherburne, Charles Penot, John Hainkel, Lyon Garrison, Randall Mulcalhy, Mikal Watts, Dave Kurtz, Karen Whitfield, and Jerry Barrios. Following that conference, the Court held a general status conference in the courtroom, which was open to all counsel. As for the individuals in attendance, the Court has attached the sign in sheet from that conference.

During the conferences, the Court **ORDERED** as follows:

(1) **On or before Friday, October 30, 2009**, Plaintiffs, the manufacturing defendants, the contractor defendants, and the Government shall each provide to the Court the names of two individuals who are willing and able to serve on a committee that will be tasked with developing rules for and a procedure for a summary trial. Also, the

**PSC Motion requesting a Summary Jury Trial for one or More Scheduled**

**Bellwether trial (Rec. Doc. 4271) is DENIED** to the extent that it seeks the utilization of this mechanism for the December 7, 2009 and January 11, 2010 trial dates.

(2) The Keystone bellwether trial currently set for January 11, 2010 is **CANCELLED**. Thus, **Keystone's Motion to Name Valena Byrd As Replacement Bellwether Plaintiff (Rec. Doc. 5537)** in that trial is **DENIED AS MOOT**.

(3) The Keystone bellwether trial is **RESET** to begin on **Monday, July 19, 2010**. The pre-trial conference, currently set for the Keystone bellwether trial on Thursday, December 3, 2009, is **CONTINUED** to **Thursday, July 1, 2010, at 9:00 a.m.**

(4) **On or before Friday, November 6, 2009**, the parties shall agree on a bellwether plaintiff for the July 19, 2010 Keystone trial who corresponds to both Keystone and CH2M Hill. Only plaintiffs who have FEMA-ripe claims are eligible to serve as bellwether trial plaintiffs. If, by that date, the parties cannot reach an agreement, they shall submit nominations and Plaintiff Fact Sheets for the nominees. All nominees must certify that they understand what it means to be a bellwether plaintiff, that they are aware of the trial date, and that they are committed to participate in all necessary pre-trial matter and trial.

(5) **On or before Friday, November 6, 2009**, the parties participating in the Fleetwood bellwether trial shall confer and submit to the Court a jointly-agreed upon trial plan, which shall specifically set forth allotted time limits regarding witness questioning, etc. that will allow for completion of this bellwether trial within 10 work days.

(6) The parties in the Fleetwood bellwether trial shall file all *Daubert* motions **on or**

**before Monday, November 9, 2009.** Any oppositions to these motions should be filed **on or before Wednesday, November 18, 2009.**

(7) The parties in the Fleetwood bellwether trial shall file all motions in limine **on or before Monday, November 16, 2009.** Any oppositions to these motions shall be filed **on or before Wednesday, November 25, 2009.** Any replies shall be filed **on or before Monday, November 30, 2009.**

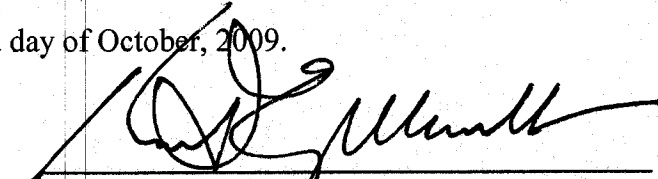
(8) **On or before Monday, October 26, 2009,** Plaintiffs shall report to the Court and the parties on the medical condition of Carrie Smith, which will indicate whether she can proceed as the bellwether plaintiff in the Recreation By design bellwether trial, currently set for May 17, 2010. If she is unable to proceed, the Court intends to replace her with Earline Castanel.

(9) A second Gulf Stream bellwether trial is set for **Monday, September 13, 2010.** **On or before Monday, November 30, 2009,** Defendants shall provide to Plaintiffs the names of 20 potential plaintiffs who have been matched who could be bellwether plaintiffs. **On or before Wednesday, December 30, 2009,** Plaintiffs shall select one of Defendants' nominees to serve as bellwether plaintiff for a second Gulf Stream trial. Only plaintiffs who have FEMA-ripe claims are eligible to serve as bellwether trial plaintiffs. The selected bellwether plaintiff must certify that he or she understands what it means to be a bellwether plaintiff, that he or she is aware of the trial date, and that he or she is committed to participating in all necessary pre-trial matter and trial.

(10) **On Friday, January 15, 2010 at 8:30 a.m.,** the Court will hold a status conference in chambers with liaison counsel, committee members, and counsel for FEMA.

(11) A general status conference, open to all counsel, will be held in the courtroom of the undersigned on **Friday, January 15, 2010 at 10:00 a.m.**

New Orleans, Louisiana, this 23rd day of October, 2009.



---

**KURT D. ENGELHARDT**  
**UNITED STATES DISTRICT JUDGE**